

Section 819

SEC. 819. CONTRACTING WITH FEDERAL PRISON INDUSTRIES.

(a) ASSURANCE OF BEST VALUE FOR NATIONAL DEFENSE -

(1) Section 2410n of title 10, United States Code, is amended --

(A) in subsection (a) --

(i) by amending the heading to read as follows: 'MARKET RESEARCH- ';

and

(ii) by striking 'comparable in price, quality, and time of delivery to products available from the private sector' and inserting 'comparable to products available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery';

(B) by striking subsection (b) and inserting the following:

'(b) COMPETITION
REQUIREMENT -

If the Secretary determines that a Federal Prison Industries product is not comparable in price, quality, or time of delivery to products available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery, the Secretary shall use competitive procedures for the procurement of the product or shall make an individual purchase under a multiple award contract. In conducting such a competition or making such a purchase, the Secretary shall consider a timely offer from Federal Prison Industries.'; and

(C) by adding at the end the following new

subsections

'(c) IMPLEMENTATION BY
SECRETARY OF DEFENSE -

The Secretary of Defense shall ensure
that --

'(1) the Department of Defense
does not purchase a Federal
Prison Industries product or
service unless a contracting
officer of the Department
determines that the product or
service is comparable to
products or services available
from the private sector that best
meet the Department's needs in
terms of price, quality, and
time of delivery; and

'(2) Federal Prison Industries
performs its contractual
obligations to the same extent
as any other contractor for the
Department of Defense.

'(d) MARKET RESEARCH
DETERMINATION NOT SUBJECT TO
REVIEW -

A determination by a contracting
officer regarding whether a product or
service offered by Federal Prison
Industries is comparable to products or
services available from the private
sector that best meet the Department's
needs in terms of price, quality, and
time of delivery shall not be subject to
review pursuant to section 4124(b) of
title 18.

'(e) PERFORMANCE AS A
SUBCONTRACTOR -

(1) A contractor or potential contractor
of the Department of Defense may not
be required to use Federal Prison
Industries as a subcontractor or
supplier of products or provider of
services for the performance of a
Department of Defense contract by
any means, including means such as --

'(A) a contract solicitation

provision requiring a contractor to offer to make use of products or services of Federal Prison Industries in the performance of the contract; '(B) a contract specification requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or '(C) any contract modification directing the use of products or services of Federal Prison Industries in the performance of the contract.

(2) In this subsection, the term 'contractor', with respect to a contract, includes a subcontractor at any tier under the contract.

'(f) PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION-

The Secretary of Defense may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to--

'(1) any data that is classified;

'(2) any geographic data regarding the location of --

'(A) surface and subsurface infrastructure providing communications or water or electrical power distribution;

'(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

'(C) other utilities; or

'(3) any personal or financial information about any individual private citizen, including information relating

to such person's real property
however described, without the
prior consent of the individual.

'(g) DEFINITIONS - In this section:

'(1) The term `competitive procedures'
has the meaning given such term in
section 2302(2) of this title.

'(2) The term `market research' means
obtaining specific information about
the price, quality, and time of delivery
of products available in the private
sector through a variety of means,
which may include --

'(A) contacting knowledgeable
individuals in government and
industry;

'(B) interactive communication
among industry, acquisition
personnel, and customers; and

'(C) interchange meetings or
pre-solicitation conferences
with potential offerors.'.

(2) Paragraph (1) and the amendments made
by such paragraph shall take effect as of
October 1, 2001.

(b) REGULATORY IMPLEMENTATION -

(1) Proposed revisions to the Department of
Defense Supplement to the Federal
Acquisition Regulation to implement this
section shall be published not later than 90
days after the date of the enactment of this
Act, and not less than 60 days shall be
provided for public comment on the proposed
revisions.

(2) Final regulations shall be published not
later than 180 days after the date of the
enactment of this Act and shall be effective on
the date that is 30 days after the date of the
publication.